HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION Nos. 6820 OF 2004,

8034 OF 2004 & 8855 OF 2004

Dated 28-11-2005

WRIT PETITION No. 6820 OF 2004.

Between :

1. Soukat Baig, son of Mirza Shoukat Baig, aged about 22

years, Occupation : Student, resident of Hyderabad and others.

...petitioners.

And:

1. Manonmaniam Sundaranar University, Tirunelveli, Tamilnadu, represented by its Registrar and others.

…Respondents.

WRIT PETITION NO. 8034 OF 2004

Between :

1. C.N.Venu Gopal, son of Nagarajan, aged 36 years, Occupation: Student, resident of Cuddapah and others.

..Petitioners

And :

1. Manonmaniam Sundaranar University, Tirunelveli, Tamil

Nadu represented by its Registrar and others.

…Respondents

WRIT PETITION NO. 8855 OF 2004

Between :

1. K. Jitendra Babu, son of K.Thomus, aged 30 years,

Occupation: Student, resident of Gulntur.

..Petitioners

And :

1. Manonmaniam Sundarnar University, Tirunalveli, Tamilnadu, represented by its Registrar and others.

…Respondents.

COMMON ORDER :

These writ petitions are filed assailing the action of Directorate of Distance & Continuing Education Manonmaniam Sundaranar University, Manonmaniam Sundaranar University, Tirunelveli, Tamil Nadu in withholding Memorandum of pass certificates and marks memos even after their successful completion of Graduation under open University Scheme.

2. The Manonmaniam Sundaranar University-1st respondent has different schemes under open university system. One such scheme is re-admission scheme wherein drop outs from Degree level would seek to get admission and get the certificate after completion of the subjects, which they have not completed in the degree examinations conducted by various universities. Under Distant scheme, candidates who have passed the minimum eligible course/degree under regular education can secure admission in UG/PG Degree courses. Under open University scheme, candidates, who are unable to study regular pattern can continue under this scheme without any pre-requisite educational qualification. The petitioners secured spot admissions through various study centers. After admissions, petitioners were given identification cards. Basing on the identity cards, study material was

dispatched to them through study centers. The petitioners have attended P.C.P. (Personal Contact Programmes) as well as the week end classes. The petitioners appeared for the examinations and successfully completed the courses. The University has not issued pass certificates and mark memos and therefore, writ petitions are filed assailing the action of the university.

3. The 2nd respondent filed counter-affidavit. It is stated in the counter-affidavit that many students had produced bogus certificates and obtained admissions in the concerned study centers regarding which police cases have been registered and are pending in Courts. The concerned study centers were directed to collect original certificates and produce the same before the Directorate of Distance Education with a specific note that failure to do so would result in cancellation of the admission already made and that no representation from the students and study centers would be entertained. Inspite of specific instructions, no original certificates were produced for verification, apparently, to avoid detection of forgery and hence the University was forced to withhold the results, mark statements and provisional certificates.

4. Heard Sri P. Ramachandra Rao, learned the Senior Counsel appearing for the petitioners and learned Standing Counsel appearing for the respondents 1 and 2.

5. The learned counsel senior counsel for the petitioners submits that the 2nd respondent having allowed the petitioners to write the examination and complete the course is not justified in withholding Memorandum of Marks and Provisional Certificates and therefore, the mandamus is required to be given to the respondents as prayed for by the petitioners.

6. The learned counsel for the 2nd respondent-University submits that the petitioners have taken admission under Distance & Continuing Education scheme and unless they place on record the original certificates of minimum eligible course, they are not entitled to insist for issue of Memorandum of Marks and Provisional Certificates of Degree/PG which they pursued in Distant Education through the concerned study centers.

7. The issue required to be resolved is whether the petitioners pursued the education through Distance Education system or Open University system. In case of Distance Education system, candidates must have passed the minimum eligible

educational qualification. In case of Open University, the candidate is required to pass entrance test. For better understanding, I may reproduce the relevant portion from the prospectus of the 1st respondent-University with regard to Distance Education System and Open University system.

DISTANCE EDUCATION SYSTEM:

> "Candidates who have passed the minimum eligible courses or degree under regular education from any recognized institutions or University will be admitted in UG/PG degree course under Regular System in DD & CE on verification of previous year certificates in original."

OPEN UNIVERSITY SYSTEM:

> "Candidates who are unable to study in regular formal education can continue their studies under Open University System. No prerequisite educational qualification is necessary. Those who have completed the age of 18 years as on 1st July for Academic Year and 1st January for Calender Year are eligible to join Under Graduate Courses and for those who have completed the age of 21 years as on 1st July for Academic Year and 1st January for Calender Year are eligible to join Post Graduate Courses directly after passing the entranced Exam.
>
> Before the entrance test preparatory classes will be conducted for the candidates in order to give them basic knowledge on the subjects. Date of Birth Certificate for age proof should be produced at the time of admission.
>
> After getting a pass in the above test candidates will be admitted in the respected courses."

8. The prospectus are very clear that a student can pursue his further studies either under Distance Education or under Open University system. In case the petitioners got admission in the 1st respondent-University through its study centers situated at various places under Open University System, the 1st respondent University cannot insist production of original certificates of minimum eligible course. In case, the petitioners got admission under Distance Education system, the 1st respondent-University is justified in asking for production of the original certificates of minimum

qualification. It is for the 1st respondent-University or the 2nd respondent- Directorate of Distance Education to clarify whether the petitioners got admissions and pursued their respective courses under Distance Education System or open University system.

9. Accordingly, these three writ petitions are disposed of directing the respondents 1 and 2 to examine whether the admission of the petitioners are under Open University System or Distance Education system and in case of their admission being found under open University system, original certificates of minimum educational qualifications shall not be insisted and they shall be issued provisional certificates, if they are not otherwise ineligible. No costs.

_____

Justice B. SESHASAYANA REDDY

Date : 28th November, 2005.

Dvs

HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION Nos. 6820 OF 2004,

8034 OF 2004 & 8855 OF 2004

Dated 28-11-2005